

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

**NOTICE OF PERIOD FOR PUBLIC COMMENT
ON POLICY CHANGES RE FEES**

The Mobile Bar Association Bankruptcy Committee has proposed two changes to the general fee policies followed by practitioners in this Court. One relates to Chapter 13 debtors' attorneys' fees. The other to fees of attorneys filing relief from stay motions. In general, the changes would raise the fees charged by debtors' counsel in Chapter 13 cases and creditors' counsel in relief from stay motions. These charges would become the "standard" charges for routine Chapter 13 cases and relief from stay motions unless questioned by any party in interest or unless an attorney chooses to seek higher fees and make a written request for the fee to the Court. The Court, by recognizing these standards, will not be bound to approve these amounts in any case. The fees are always subject to scrutiny by any party.

Parties can make written comments on these changes until October 15, 2002. At that time, the Court can, by general order, recognize the policies as applying to all new cases and motions filed after October 15, 2002, or the Court can request that the Bankruptcy Committee review the issue further.

Comments should be made to:

Judge Margaret A. Mahoney
United States Bankruptcy Court
201 St. Louis Street
Mobile, AL 36602

Judge William S. Shulman
United States Bankruptcy Court
201 St. Louis Street
Mobile, AL 36602

Jeffery Hartley
Chair of Bankruptcy Committee
P. O. Box 2767
Mobile, AL 36652

September 4, 2002

HAND DELIVERY

Honorable Margaret A. Mahoney
Honorable William S. Shulman
United States Bankruptcy Court
201 St. Louis Street
Mobile, Alabama 36602

Re: Creditor Attorney's Fees for Relief From Stay Motions

Dear Judges Mahoney and Shulman:

I am contacting you as Chairman of the Ad Hoc Subcommittee for local practices and procedures. As you know, the Subcommittee has been discussing fees charged by creditor attorneys for routine relief from stay motions. The purpose of this letter is to share the Subcommittee's views regarding creditor attorneys fees for a "garden-variety" relief from stay motion.

For approximately the last twenty (20) years, the standard accepted fee for a routine relief from stay motion has been \$350. The Subcommittee has recommended that this fee should be increased to \$550.

Although the same cost analysis applies to creditor attorneys that was outlined in the recent Chapter 13 debtor's counsel proposal, perhaps the most telling fact is the 2002 CPI value of \$642.41, based upon \$350 in 1982 dollars. This represents an 80% increase in cost to purchasing power rates, a clear indicator of the need for a fee increase.

Like everyone else, the dramatic rise in the volume of bankruptcy filings has increased the time it takes to attend to most matters. While ECF may ultimately help decrease this time commitment, the pace of consumer filings does not seem to be slowing. It is also important to note that most institutional mortgage servicers (FHA, Freddie, VA, etc.) are allowing \$500 to \$600 for standard relief from stay motions.

For all of these reasons, the Subcommittee believes that the standard fee for consumer relief from stay motions should be set at \$550 per case. The Subcommittee is not necessarily requesting the adoption of a formal “local rule”, a simple understanding among the Bar and the Court will suffice.

On behalf of the Subcommittee, I am available to discuss this matter with either of you at any convenient time. If you believe further information or discussion is necessary, I will be happy to arrange a meeting between the Subcommittee and Court.

As always, thank you for your time and consideration.

Sincerely,

Jeffery J. Hartley

JJH/ktm

cc: Ad Hoc Bankruptcy Subcommittee Members

MEMORANDUM

TO: HONORABLE JUDGE MARGARET MAHONEY
HONORABLE JUDGE WILLIAM SHULMAN

FROM: BANKRUPTCY SUB-COMMITTEE

RE: PROPOSED ATTORNEY FEE INCREASE

The Bankruptcy Section sub-committee met on August 8, 2002 to discuss the current fee schedule for Debtor attorneys in Chapter 13 cases, which now stands at \$1,300.00 per case. This fee schedule has been in place since August 31, 1999. It is the opinion of the sub-committee that an increase in the fees is now warranted. The sub-committee recommends that the fee be increased to \$1,800.00 per case.

Among the reasons discussed for the increase are as follows:

1. With the recent change to ECF, the costs to Debtor attorneys have substantially increased due to additional expenses involving updating equipment, monthly high speed internet requirements and maintaining equipment, extra staff and computer expenses.

2. With the change to ECF, previous court duties have now been placed on Debtors attorneys, including submitting orders associated with misc. hearings in the case.

3. Currently, Debtor attorneys in the Northern District of Florida (Pensacola Division) and the Northern and Southern Districts of Mississippi are awarded \$1,500.00 in Chapter 13 cases. This fee has been in effect since August, 2000. The fees in the Northern District of Alabama were raised to \$1,500.00 effective January 1, 2002. It should also be noted that none of those Bankruptcy Districts have switched to ECF and none has had to incur the additional associated costs.

4. It is also the opinion of the sub-committee that the time involved in representing Debtors over the 5-year life of a Chapter 13 plan has increased not only thru the actual time required for proper interview and careful preparation, but also the lengthening of court dockets has increased by 200 to 300%. Also, the exposure of representing a Debtor over a 5 year period has dramatically increased.

5. Based on recent discussions with the Chapter 13 Trustees' office, on average, Debtor attorneys receive 72% of the fee awarded due to some cases being dismissed. In some cases the Debtor's attorney may not receive a fee at all for work performed based on the current fee structure.

For the foregoing reasons, the Bankruptcy sub-committee recommends a fee increase to \$1,800.00 per case.

Thank you for your time and consideration.